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Docket No.: 1293.1159

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Jung-Kwon HEO, et al.

Serial No. 09/736,160

Group Art Unit: 2654

Confirmation No. 8106

Filed: December 15, 2000

Examiner: Martin Lerner

For: AUDIO DATA PACK FOR USE IN RECORDING AND/OR REPRODUCING AUDIO
DATA AND HAVING EDITABLE ADDITIONAL DATA RELATED TO AUDIO DATA

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed April 6, 2005, having a shortened period for response set to expire on May 6, 2005, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect Group I, claims 1-8, 16-23, 30-33, 48-49 and 51 in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Groups II, III and IV is concerned, it is believed that claims 9-15, 24-29, 34-38, 39, 41-47 and 50 are so closely related to elected claims 1-8, 16-23, 30-33, 48-49 and 51 that they should remain in the same application. The elected claims 1-8, 16-23, 30-33, 48-49 and 51 are directed to a recording medium including data reproduced by a recording and/or reproducing apparatus, a reproducing method of reproducing data from the recording medium and a reproducing apparatus for reproducing data from the recording medium and claims 9-15, 24-29, 34-38, 39, 41-47 and 50 are drawn to a recording medium, a recording and/or reproducing apparatus and a recording method. There have been no references cited to show any necessity

for requiring restriction and, in fact, it is believed that the Examiner would find references containing method, product and apparatus claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the method, product and apparatus claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of all sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by Groups II, III and IV by filing divisional applications.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

Even if the Examiner considers claims 9-15, 24-29, 34-38, 39, 41-47 and 50 to be separate inventions from claims 1-8, 16-23, 30-33, 48-49 and 51, the Applicants respectfully request the Examiner to consider claims 1-8, 16-23, 30-33, 48-49 and 51 (Group I) and 9-15, 24-29, 34-38, 39, 41-47 and 50 (Groups II, III and IV) together.

III. Conclusion

Upon review of references involved in this field of technology, when considering that Groups II, III and IV claims are directed to a recording medium, a method of reproducing the recording medium and a reproducing apparatus, and elected claims 1-8, 16-23, 30-33, 48-49 and 51 are also directed to a recording medium, reproducing method and reproducing apparatus and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 503333.

Should any questions remain unresolved, the Examiner is requested to telephone

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Applicants' attorney.

Respectfully submitted,

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